

YOUR TOWN HALL

The meeting opened with all Committee members present.

KNOWN ACTION ITEMS

10-249 All members voted yes with Sean Byrnes voting yes with comment. He said he is voting yes but it is a significant expense for the town. The Town has the ability to spread this over 5 years and this is an obligation that has to be paid. He said he has concerns about the process in which tax appeals are handled. Mr. Byrnes said the Committee knew about some of these expenses. He said the town needs to revamp the process of how tax appeals are tracked so that more advanced notice is provided. Mr. Byrnes said that he did not feel that there was significant notice given on this appeal. He said that they need to know in advance so planning can be done to achieve savings from year to year. He said that in the end it has to be paid.

Resolutions 10-250, 10-251 and 10-252 passed with all Committee members voting in favor of adoption.

The agenda for the 10-18-10 meeting was read.

DISCUSSION

a) Mr. Scharfenberger asked Tony Mercantante to provide an overview of where the Township stands with this and the costs involved. Mr. Mercantante said that many towns are faced with this issue. An assignment judge sends notice to the towns to update security in the courtroom. He said that there are short and long term expenses which could cost \$100K per year if the room needs to be staffed by police or security. Mr. Mercantante said that he discussed this with Mr. Scharfenberger to determine if this was another unfunded mandate because the court was demanding it. He said

that other municipalities approached legislators to introduce a bill that states that it is optional for towns to implement.

b) Tony Mercantante said this should be discussed. He spoke to a Port Monmouth resident who has a neighbor that parks a commercial vehicle on the street. He said that it is not prohibited by our town but it could be a traffic hazard or simply bothersome to residents. He said we need to do an assessment of the whole town to see the impact on everyone before an ordinance was introduced to prohibit large commercial vehicles on town streets. Mr. Mercantante said they should ask the police when they patrol to take a survey of the number of commercial vehicles on the street. He said that this is the only complaint ever submitted that he knew of. Mr. Fiore said the letter to the Committee says the current ordinance states that no large commercial vehicles are to be parked outdoors over night. Mr. Mercantante said that the ordinance states that commercial vehicles can't be parked on property. Mrs. Brightbill said that one letter doesn't warrant action but Mr. Scharfenberger said it is worth looking into. Mr. Mercantante said they can get a survey done to get a feel of the need. He said that this can't be addressed with zoning because zoning ends at the property line. Mr. Scharfenberger said that since this could be a potential traffic hazard it would be worth looking into.

c) No comments were made by the Committee regarding this item.

d) Jason Greenspan, the Township Planner said this is the first year of a five year plan and an action plan is required to be on file with the Federal Government by the middle of November every year. He said this year there was over \$300K in grant funds and he anticipates this level of federal funding to be stable. Some of the activities that are to be done with these funds are housing rehabilitation and allocating funds to make capital improvements

YOUR TOWN HALL

for accessibility improvements at public facilities, particularly in North Middletown.

e) Nick Trasente, the Township CFO, was going to put this on the agenda for this week but there was some question on how the ordinance should be worded. Mr. Nelson said that there is a new state law this year that allows towns to amortize the retirement severance liabilities over five years. Mr. Trasante said that there are a couple more police officers that will retire by the end of the year and calculations need to be done. He added that this is the first time this has been done in town. Mr. Nelson said the minimum threshold was removed by the state and signed into law. He said that a new bill just passed by the Legislature requires that employees must now work 30 years before retirement. This is causing another wave of retirements. Mr. Mercantante said that a breakdown will be provided when this is introduced. Mr. Byrnes asked why it was called an emergency appropriation and what will be appropriated in 2010 as a result of this. Mr. Trasente said that nothing will be in 2010, except what is already in the budget. He said that 1/5th will be in the 2011 budget and a big factor in the number of retirees will be the \$15K cap in payout.

F) No comments.

COMMITTEE COMMENTS

Before the Committee began their comments Mr. Scharfenberger said that he wanted to add something to the next meetings' agenda. He wanted to appoint William Snyder to the Housing Authority now, before the next re-organization meeting. Also, Mr. Mercantante said he received a letter from a resident stating that they were interested in managing the concession stand at Ideal Beach, once it is completed.

Committeeman Byrnes began by saying his comments are meant to be productive to deal with this financial situation. He said there are

severe pressures on the Township and the way business is conducted here has to change. There is not much opportunity to discuss business openly in meetings and he questioned if others are conversing amongst themselves. He said the Committee is the policy maker. Major decisions need to be made and other committees need to be formed or he feels big trouble will ensue. He went on to say that each Committee member can meet with the staff and discuss different issues, but it is not the way any organization gets things done. He said we have to figure out how to get the needed work done because half of their meetings are spent giving out awards. He went on to say that the emergency appropriations, over the past two years, are a reflection that a planning and execution process is not in place in the Township. Mr. Byrnes said there has been lots of debate over exactly what our tax increase was in Middletown but he confirmed that we are the highest. Our neighbor, Holmdel comes in at 10%. He commented that other towns are faced with the same external factors as Middletown but our numbers are far worse. He went on to say that he is still waiting for the estimate to be presented regarding televising Committee meetings. This has been discussed before with Mr. Scharfenberger saying the cost would be \$100K or more but he has yet to see how that number was determined. He then said we have a lot of financial talent in town responsible for running Fortune 500 companies that the town could ask to come in and review the finances and lend a hand. Next he talked about the ordinance tonight for \$20M to refinance bonds. He said the county does bonding for us and we can do debt on our own for less. Nick Trasente said they had an analysis done and they could have done better 4 years ago, but now the difference between one rating level such as an AA1 and an AA2 is much larger than it used to be and the County has an AAA rating. The County can gain more in savings than the Township because of the higher rating and they

YOUR TOWN HALL

have a larger pool, so they can spread out the costs between all the participating towns. The Township can save about \$130K because of the County rating. Mr. Byrnes asked if we know all the costs and Mr. Trasente said it is included in the application with the Local Finance Board. He said that we save about 4% minimum. Mr. Byrnes then asked if that was after all costs were paid to the County and Mr. Trasente said all of the costs are presented before the transactions take place. Mr. Byrnes said he wants to see someone at the table to represent the Township to make sure we are getting savings. He emphasized that it would not hurt to have someone at the table. Mr. Byrnes then talked about Shadow Lake and how he went there to look at the problem. He said that about 30 to 40% of the lake is covered by growth. He was told by a resident that there is currently a company under contract who applies a herbicide to kill the overgrowth. He said we need to look into this contract to see if the vegetation can be reduced even more. He went on to say that perhaps we can get the Army Corps of Engineers involved to get federal approval to dredge the lake and perhaps a big hole can be dug in the lake to bury dredge spoils. Mr. Nelson said we have been through this before. He said the DEP will not allow dredging and will not issue a permit. But Mr. Byrnes countered that the Army Corps is working on a lake in Freehold with the same problem.

Mr. Byrnes then directed his comments to the way the Township does business at the end of the year and the major financial costs that are being experienced. He listed the bonding for tax appeal settlements, additional bonding for personnel costs and all the things that cause us to be in the situation that the Township is in. He feels that it is a good idea to put together a financial task force to concentrate on health benefits, Parks & Rec, the debt structure and how it is going to change because of obligations that have been put into place over the past few

months. He said the current process is not working.

Steve Massell wanted to discuss Sean's comments about the vegetation problem at Shadow Lake. He asked Mr. Byrnes about the vegetation and Mr. Byrnes said there are pods like water chestnuts that could re-germinate over the course of 10 years and then there are water lilies. Mr. Massell then asked Mr. Byrnes if there is any way to get rid of it. Rob Keady, Township Consulting Engineer with T&M, said we had done something years ago and it was done on a semi-annual basis. Mr. Byrnes said he learned from the contractor that is employed by the Township that if it is treated more aggressively the vegetation can be controlled. Mr. Massell said that something has to be done because the lake is a gem. He said he didn't know the latest information from the DEP. Mr. Scharfenberger said there is a meeting October 12th in Joe Kyrillos' office. Mr. Mercantante wanted to know who the contractor was that Mr. Byrnes was speaking with. Mr. Byrnes said that it was Glenn Sullivan and Mr. Mercantante said that he did not think a contract was issued to him. Mr. Byrnes said that the contractor was paid this year and that Gregg Silva is in charge of it. Mr. Massell then said that the Pool Club has to change. The way it is run now can't continue and when talk about planning ahead is discussed, now is the time to be doing it for next year. As for televising the Committee meetings, as Mr. Byrnes mentioned, Mr. Massell said that he feels it is a good idea, but he understands that it will cost too much and it is not worth it.

Pam Brightbill started by saying that the sponsors of Middletown Day will be recognized at the Oct. 18th Committee meeting. She also wanted to recognize Robin Hazbeth for coordinating all the volunteers and Joe Lawlor from the Arts Council Board for coordinating all the entertainment. She then said that Poricy Park hosted the "National America On The Move Day" with the YMCA, which is a great

YOUR TOWN HALL

organization and we look forward to working with them. Mrs. Brightbill then said that members of the Swim Club want to know what is going on. Tony Mercantante said we can start the next workshop meeting at 6pm and have the executive session after the regular meeting so they can have their questions answered. Mrs. Brightbill said she received a memo from Gregg Silva saying what was being planned for Middletown Day. She said that the Halloween Hullabaloo will be October 22nd and there should be a memo detailing what is being planned and the costs involved. She then thanked everyone for listening to her long speech at the last meeting and that everything she had concerns about has been addressed. She went on to talk about parking problems at the Municipal Center and she feels the front door lot should be for visitors only, along with spaces that are close to the doors of all buildings. She wants to get information on the costs of nametags that could be provided to all employees. They should be coated and she hopes by doing this, better customer service will be provided. She wanted to follow up on the Sustainable NJ grant and stated that the Green Team will be meeting at Poricy Park with Master Gardeners. Mrs. Brightbill then said that she, Ted and Heidi are members of the Clean Communities and had a meeting where it was discussed that there are commercial lawn signs (not political) all over town and it makes the town look like a mess. There are also spray-painted street signs. They want the supervisors to look for other things when out in town. Tony Mercantante said he met with code enforcement about the signs on properties and they might fine the property owners instead of the renters. Lastly Mrs. Brightbill said that the schools are not recycling. Every class should have a cardboard box to collect recyclables.

Tony Fiore commented on how the Committee has the answers and we need to look forward. They have had 2011 budget

discussions and new challenges will have to be faced. He said that Mr. Trasente told him that it is Economics 101 when a bare bones budget is run for years you will get hit significantly. He said that any type of committee that is formed or who would be on that committee, the results will be the results. Mr. Fiore said that the town is at a critical point as labor negotiations are beginning. The resolution that was passed at this meeting is a push back for unfunded mandates. He said that he read a "Two River Times" article on televising Committee meetings and received a memo from the Administrator regarding the cost. The estimate states that it would cost \$102K and more if the bandwidth is increased. He stated the town will not get volunteers to stay until 11pm to televise meetings. Next, Mr. Fiore said we need to push a dollar cap on severance in our own town negotiations. We can't afford to pay retirement, unused sick time, vacation and health insurance. A list of savings will be presented to the administrator this week with respect to other ways to look at the towns' health insurance. He said it was mentioned that the recreation costs in Howell are much less than in Middletown. Mr. Fiore said that our budget might take into account some services that other towns do not and he would like to see what they are spending money on before forming an opinion. He said that regarding the Board of Education Shared Services Committee, a letter of agreement came back from the BOE but they want to use their own employees. He said this method is not effective and it will not work. Mr. Fiore said the BOE can't even decide who will sit on the committee to represent them. He also agreed with Mrs. Brightbill on residents' access to township facilities. He stated he has property in Stafford and they do it there.

Mr. Scharfenberger said Shadow Lake is a big concern. He said the vegetation problem needs to be addressed, but the siltation is the real problem. He said that he is meeting with the

YOUR TOWN HALL

DEP next week and hopefully an agreement can be reached. Mr. Scharfenberger stated that the tool kit is what will fix the budget and we don't need a committee to tell us what is needed. He said that the \$2.3M Parks & Recreation budget is offset by fees. Mr. Byrnes again asked for the cost estimate to televise committee meetings and he also requested a copy of the letter from the BOE. Mrs. Brightbill said she did not see the BOE letter either. Mr. Fiore said that he received the letter a couple of weeks ago.

PUBLIC COMMENTS

Dona Kuntz wanted to make sure that everyone was aware of the letter she sent to Brian Nelson and she supplied copies for each Committee member. She is looking forward to their response.

Linda Melchionna said that she has exhausted all avenues to get a resolution and her neighbor did not show up in court. She said that she is tired of living with this. She said that she has collected a lot of background information on this resident and he is going to hurt someone. She gets blamed in all police reports. She said that it is not getting better and more people will be signing complaints. She said that the responsibility falls on the township if nothing will be done and someone gets hurt. Mr. Nelson then instructed the Committee not to make any comments because it is in the courts. She said that Township employees say they are told only to do so much.

Jim Grenafege said the transparency achieved from televising township meetings is really worth the investment. He stated that a memo stating a cost of \$102K as research is hard to justify the price tag as opposed to the \$15K price from research of a newspaper reporter. He then said that budgets in the past have been Trenton's problem but now the problem is going to be taken care of by Christie and the mayor is going to ride his coattails. Mr.

Grenafege said that he sees the problem as a policy or leadership issue. He said that the Committee majority is not providing the leadership or policies and management can only flounder because the leadership is not there. He said the tax bill went up and he attributes that to mismanagement in the Township. The largest portion of the increase came from the Township and he was not clear about the letter that came with the tax bill so he asked Mr. Byrnes to clarify. Mr. Byrnes stated that he did not see the letter before he got his tax bill and he doesn't think it is completely accurate. He said there is a \$10M loss in revenue claim and there is no way that that much was lost. Mr. Byrnes said that it might be a little over \$2M, but it is not \$10M. He said the Committee knew that contributions to the pension fund last year were not made and had to be made this year. He said of the stated 40 cuts in employees actually included 16 layoffs and the rest were retirees. He said that the core issues can't be addressed until it is acknowledged that the issues exist. Mr. Byrnes said he has a problem with writing articles to spin the budget situation and to make the budget better than what it is. The mayor interrupted to say that the five minutes allotted to Mr. Grenafege had expired and asked the members of the public if anyone else would like to speak. Mr. Grenafege objected, but the mayor insisted and moved on to another speaker.

Austen Canade said that he would like to thank the Committee for the attention to the problem with the lake. He said most lake users are from out of town and enjoy it. He said that he had over 125 signatures on a petition of people that are not from Shadow Lake Village. He asked when the meeting with the DEP was going to take place. Mr. Scharfenberger said there is a meeting on October 12 with Senator Kyrillos, Assemblywoman Handlin and a DEP expert that would be in charge in giving the go-ahead and he is hoping that Sen. Kyrillos will put pressure on the DEP to get action. Mr.

YOUR TOWN HALL

Canada said there are 5 sources that feed the lake and they should all be dredged or the problem will reoccur. He said that the taxes are higher because they live on the lake and living on a dead lake is like living in a cesspool.

Bill Meany said he won his tax assessment but his new tax bill did not change and he was supposed to get a refund for the 2009 and 2010 tax years. He could not get an answer from Township employees as to when he will get his refund. Mr. Scharfenberger said Mr. Trasente will explain why and then Mr. Meany asked what the actual tax rate is. He said he was charged for 2 fireplaces, 3 times and he only has 1 fireplace. Mr. Reilly said they don't go in every house to give the township a break so they don't have to see the judge. Mr. Meany wanted to know when the refund check was coming. Mr. Trasente said the 2009 money will be refunded but the 2010 bill is the same because it was adjusted after the bill went out. Mr. Nelson said the Township has 60 days to appeal. Mr. Trasente said the adjusted 2010 bill will come in a week or two.

Don Watson asked what happens now that all the bids have been thrown out regarding the Pt. Monmouth flooding project. Mr. Maloney said the process now allows negotiations with the low bidders and T&M engineer, Rob Keady, met with them to provide specifics of the job. Mr. Keady is giving the low bidders a week to submit new bids that should be lower than what have been previously submitted. Mr. Maloney said that they might come in higher than the original estimate. Mr. Watson then read a letter from a resident that lives on one of the streets that flood. The letter explained that she could not get to the meeting because her street was flooded and how she had to wait until the tide went out so she could move her car out of her driveway and up the street so she could get to work the next day. The letter stated that she still had to go grocery shopping and did not know when that would be either.

She asked Mr. Watson to find out when they could expect some help with this problem. She also said that the flooding would be comical if it was not so sad and thanked the Committee for the help that will hopefully come soon. Mr. Keady said that he should have the new bids by Friday, October 8.

Bruce Stafford said that he is an eye witness and could not get to his house and that is why he was at the meeting. Brainard and Monmouth Aves had one to two feet of water and Main St. has water coming over it. He said they were saved by south winds on September 3rd, the day of the Hurricane. He said that Keily resurfaced Main St and asked Mr. Maloney to look at Main St. He said water is going down the storm drains and it can't get out. Mr. Maloney said he talked to the gas company and they will get back to him. Mr. Stafford said that Keily was the one who removed the berm on Main St. and now the water is coming over at that point. Mr. Stafford said that the grass cutting machine is destroying the campaign signs that are placed 6-7 feet in from the road. He said that maybe the driver can't see them when he is using the machine.

No other members came forward to speak so the meeting was adjourned.

*If you have any questions regarding
this agenda please contact the
Township Clerk at 732-615-2014*



**Township of Middletown
Town Hall- Conference Room
One Kings Highway
Middletown, NJ 07748**

OCTOBER 4, 2010 – WORKSHOP MEETING

1. MEETING OPENS AT 7:00 P.M. - MEETING STATEMENT:

The notice requirements provided for in the Open Public Meetings Act have been satisfied. Notice of this meeting was properly given by transmission to the Asbury Park Press, The Star Ledger, The Independent, and Two River Times and by posting at the Middletown Township Municipal Building and filing with the Township Clerk all on January 8, 2010.

2. 7:00 P.M. EXECUTIVE SESSION

3. MEETING OPENS AT 8:00 P.M. - MEETING STATEMENT:

The notice requirements provided for in the Open Public Meetings Act have been satisfied. Notice of this meeting was properly given by transmission to the Asbury Park Press, The Star Ledger, The Independent, and Two River Times and by posting at the Middletown Township Municipal Building and filing with the Township Clerk all on January 8, 2010.

4. ROLL CALL

Committeewoman Brightbill _____ Committeeman Byrnes _____

Committeeman Fiore _____ Committeeman Massell _____

Mayor Scharfenberger _____

5. PLEDGE OF ALLEGIANCE

- a. Moment of Silence to Honor the Troops Serving World Wide Defending our Freedoms and Way of Life.

6. KNOWN ACTION ITEMS

- a. **INTRODUCTION** 2010-3019 Ordinance of the Township of Middletown Authorizing a Special Emergency Appropriation for Retirement Severance Liabilities
- b. 10-249 Resolution Authorizing Emergency Appropriation for Tax Appeals Refunds
- c. 10-250 Resolution Rescinding Resolution No. 10-220 and Rejecting all Bids 10-03
- d. 10-251 Resolution Rejecting All Bids for 2010 Road Reconstruction Program West and Authorizing a Rebid
- e. Raffle Application #10-129 Port Monmouth Elementary School On Premise 50/50

OCTOBER 4, 2010 – WORKSHOP MEETING

REGULAR AGENDA FOR OCTOBER 18, 2010

7. CERTIFICATE OF APPRECIATION/PROCLAMATION

- a. Employee of the Month September 2010
- b. Proclamation Declaring October as Awareness to the Prevention of Domestic Violence Month
- c. Recognition of the Middletown Day 2010 Sponsors

8. MINUTES

- a. August 2, 2010 Executive Session
- b. August 2, 2010 Workshop Meeting
- c. August 16, 2010 Executive Session
- d. August 16, 2010 Regular Meeting

9. PUBLIC HEARING OF PROPOSED ORDINANCES

- a. **2010-3017** Refunding Bond Ordinance Providing for the Refunding of Certain General Obligation Bonds of the Township of Middletown, New Jersey, Appropriating \$20,550,000 Therefor and Authorizing the Issuance Of \$20,550,000 Bonds or Notes of the Township for Financing the Cost Thereof
- b. **2010-3018** Ordinance Establishing Middletown Veteran Affairs Committee

10. CONSENT AGENDA

- a. Payment of Bills
- b. Bingo and Raffles
- c. Volunteer Firefighter Applications

11. **DISCUSSION FOR SEPTEMBER 7, 2010**

- a. Resolution Supporting A3268 Establishing that Court Security be Provided at Municipal Discretion
- b. Parking of Commercial Vehicles on Municipal Roadways
- c. Food Shopping (SCAT) Grant
- d. Community Development Block Grant 2011 Action Plan
- e. Purchasing Items:
 - i. Emergency Snow Plowing - DPW

12. TOWNSHIP COMMITTEE COMMENTS

13. PUBLIC COMMENTS

14. EXECUTIVE SESSION

15. ADJOURNMENT

Resolution No. 10-249

**RESOLUTION OF THE TOWNSHIP COMMITTEE, OF THE TOWNSHIP OF
MIDDLETOWN REQUIRING APPROVAL OF THE DIRECTOR OF THE
DIVISION OF LOCAL GOVERNMENT SERVICES – NJS 40A:4-49**
(Over 3% limitation)

WHEREAS, an emergency has arisen with respect to Tax Appeals and, no adequate provision was made in the 2010 budget for the aforesaid purpose, and NJS40A:4-46 provides for the creation on an emergency appropriation for the purpose mentioned above, and

WHEREAS, the total amount of the emergency appropriations created, including the appropriation to be created by this resolution is \$2,671,677.18 and three (3) percent of the total operating appropriations in the budget for 2010 is \$1,669,022.77, and

WHEREAS, the foregoing appropriation together with prior appropriations exceeds three (3) percent of the total operating appropriations (including utility operation appropriations) in the budget for 2010,

NOW, THEREFORE, BE IT RESOLVED, (by not less than 2/3 of all governing body members affirmatively concurring) that in accordance with NJS 40A:4-49, petition be made to the Director of the Division of Local Government Services for permission to exceed the statutory limitation of 3 percent for the creation of an appropriation for the purpose set forth in the preamble in accordance with the following:

1. An emergency appropriation is here by made for Tax Appeals in the amount of \$2,671,677.18
2. That said emergency appropriation shall be provided for in full in the 2011 budget, within CAPS, pursuant to NJS 40A:4-53.3c(1)
3. That two (2) certified copies of this resolution be filed with the Director of the division of Local Government Services

Committee Member	Approved	Opposed	Abstain	Absent
P. Brightbill				
S. Byrnes				
A. Fiore				
S. Massell				
Mayor Scharfenberger				

CERTIFICATION

I, Heidi R. Brunt, Township Clerk of the Township of Middletown, hereby certify the foregoing to be a true copy of a resolution adopted by the Middletown Township Committee at their meeting held October 4, 2010.

WITNESS, my hand and the seal of the Township of Middletown this 4th day of October, 2010.

HEIDI R. BRUNT
TOWNSHIP CLERK

RESOLUTION NO. 10-250

**TOWNSHIP OF MIDDLETOWN
COUNTY OF MONMOUTH**

**RESOLUTION RESCINDING RESOLUTION NO. 10-220 AND REJECTING ALL
BIDS RECEIVED FOR 2010 ROAD RESURFACING CONTRACT NO. 10-03 FOR
FAILURE TO DISCLOSE SUBCONTRACTORS AS REQUIRED BY LAW**

WHEREAS, on August 10, 2010, the Township received and opened bids from 5 bidders for the 2010 Road Resurfacing Contract No. 10-03; and

WHEREAS, on August 12, 2010, a bid protest was received from the second lowest bidder due to the lowest bidder's alleged failure to disclose an electrical subcontractor for certain low voltage electrical work required under the bid specifications in relation to the installation of loop detectors for traffic signals; and

WHEREAS, on August 13, 2010, it was represented by the low bidder that a subcontractor was not being used for the required electrical work; and

WHEREAS, based on the aforementioned representations by the low bidder a recommendation of award to the low bidder was provided and Resolution No. 10-220 was adopted by the governing body awarding Contract No. 10-03 to the low bidder; and

WHEREAS, on August 23, 2010, the low bidder filed a counter-protest on a number of basis including the other bidders' failure to disclose subcontractors it alleged were to be utilized for line striping and elaborating on its representations with respect to the use of electrical subcontractors in that it was going to use a union hall electrician while simultaneously alleging that a licensed electrician was not required for such low voltage work; and

WHEREAS, on or about August 24, 2010, the second lowest bidder filed an Order To Show Cause and Complaint in Lieu of Prerogative Writs challenging the Township's authorizing of the award to the lowest bidder in the matter of *Black Rock Enterprises v. Township of Middletown, et al.*; and

WHEREAS, during the week of September 13, 2010, as pleadings were being filed and certifications were being received, it was determined by the Township that other bidders' had, in fact, failed to disclose their intentions to utilize subcontractors for line striping that should have been disclosed pursuant to N.J.S.A. 40A:11-16(5) as such work was required by the bid specifications and is a mandatory non-waivable defect pursuant to N.J.S.A. 40A:11-23.2; and

WHEREAS, on September 17, 2010, the Township filed a letter brief with the Court taking the position that all bids will be rejected for failing to disclose subcontractors, in the case of the lowest bidder for the use of union hall electricians not in their employ and in the case of the other bidders for failure to disclose the use of subcontractors for line striping required in the specifications; and

WHEREAS, on September 28, 2010, a voluntary dismissal without prejudice was filed by the second lowest bidder, effectively ending the litigation in the matter of *Black Rock Enterprises v. Township of Middletown, et al.*; and

WHEREAS, to date, no contract has been entered with the lowest bidder and based on the foregoing reasons and representations made during the course of litigation in the matter of *Black Rock Enterprises v. Township of Middletown, et al.* resulting in its dismissal, it is recommend by the Township Attorney that all bids submitted for the 2010 Road Resurfacing Contract No. 10-03 be rejected and Resolution No. 10-220 be rescinded.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Middletown of that:

1. Resolution No. 10-220 is hereby rescinded for the reasons state in this Resolution.
2. All bids received for the 2010 Road Resurfacing Contract No. 10-03 are hereby rejected for the reasons stated in this Resolution.
3. The Township Consulting Engineer is hereby authorized and directed to solicit new bids by way of a Request for Proposals for the 2010 Road Resurfacing Contract No. 10-03 at a date, time and place to be determined within the next sixty (60) days.
4. That a certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

A) Purchasing Agent
B) Chief Financial Officer
C) Robert Keady, Jr., T&M Associates
D) All bidders having bid for 2010 Road Resurfacing Contract No. 10-03.

Committee Member	Approved	Opposed	Abstain	Absent
P. Brightbill				
S. Byrnes				
A. Fiore				
S. Massell				
Mayor Scharfenberger				

CERTIFICATION

I, Heidi R. Brunt, Township Clerk of the Township of Middletown, hereby certify the foregoing to be a true copy of a resolution adopted by the Middletown Township Committee at their meeting held October 4, 2010.

WITNESS, my hand and the seal of the Township of Middletown this 4th day of October, 2010.

HEIDI R. BRUNT
TOWNSHIP CLERK

Resolution No. 10-251

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP
OF MIDDLETOWN, COUNTY OF MONMOUTH, STATE OF NEW JERSEY
REJECTING ALL BIDS**

**FOR:
2010 ROAD RECONSTRUCTION PROGRAM - WEST
CONTRACT # 10-04**

WHEREAS, bids were received on Wednesday, September 8, 2010.

WHEREAS, two (2) bids were picked up by vendors, and two (2)

Bids were received as follows:

<u>VENDOR</u>	<u>AMOUNT</u>
1. AMC INDUSTRIES, LLC P.O. BOX 760 HOLMDEL, N.J. 07733	\$ 595,533.93
2. DEFINO CONTRACTING CO. 28 INDUSTRIAL DR. CLIFFWOOD BEACH, N.J. 07735	\$ 644,705.50

WHEREAS, said bids were reviewed by Robert R. Keady, Jr., Consulting Engineer and the Purchasing Agent for the Township of Middletown and it has been determined that all bids be rejected and the contract be amended to expand the scope of the project; and

WHEREAS, New Jersey Public Contracts Law 40A 11-13.2 states said rejection is just cause to reject all bids received for the 2010 Road Reconstruction Program – West, Contract No. 10-04 and to re-bid the project; and

WHEREAS, it is the desire of the Township Committee to reject all bids and to authorize the receipt of new bids for the 2010 Road Reconstruction Program – West, Contract No. 10-04.

NOW THEREFORE BE IT RESOLVED, by the Township Committee of the

Township of Middletown, County of Monmouth, State of New Jersey as follows:

- 1. That the Township Committee does hereby reject all bids received for the 2010 Road Reconstruction Program – West, for the Township of Middletown for reasons set forth in this resolution.**
- 2. That the Township Committee does hereby authorize the receipt of new bids for the 2010 Road Reconstruction Program - West. The Consulting Engineer shall determine the time, date and place for the receipt of bids.**
- 3. That a certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:**

- A) Purchasing Agent**
- B) Chief Financial Officer**
- C) Robert R.Keady, Jr., T&M Associates**
- D) All of the above bidders**

Committee Member	Approved	Opposed	Abstain	Absent
P. Brightbill				
S. Byrnes				
A. Fiore				
S. Massell				
Mayor Scharfenberger				

CERTIFICATION

I, Heidi R. Brunt, Township Clerk of the Township of Middletown, hereby certify the foregoing to be a true copy of a resolution adopted by the Middletown Township Committee at their meeting held October 4, 2010.

WITNESS, my hand and the seal of the Township of Middletown this 4th day of October, 2010.

HEIDI R. BRUNT
TOWNSHIP CLERK

Resolution No. 10-252

**RESOLUTION AUTHORIZING A CHAPTER 159 GRANT
FUNDING SOURCE IN THE 2010 MUNICIPAL BUDGET**

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget, and

WHEREAS, said Director may also approve the insertion of an item of appropriation for an equal amount, and

WHEREAS, the Township of Middletown has received a \$10,000.00 grant from the NJLM Educational Foundation, Inc. for the 2010 Sustainable Jersey Small Grant Award and wishes to amend its 2010 budget to include this amount as revenue, and

NOW THEREFORE BE IT RESOLVED, that the Township Committee of Middletown Township, New Jersey hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the 2010 budget in the sum of \$10,000.00 which is now available as revenue from:

NJLM Educational Foundation, Inc.

“2010 Sustainable Jersey Small Grant Award”

BE IT FURTHER RESOLVED that a sum of \$10,000.00 be and the same is hereby appropriated under the caption of:

General Appropriations
Operations Excluded from the 3.5 % CAPS
NJLM Educational Foundation, Inc.
2010 Sustainable Jersey Small Grant Award

BE IT FURTHER RESOLVED, that the Township Clerk forward two copies of this resolution to the Director of Local Government Services.

Committee Member	Approved	Opposed	Abstain	Absent
P. Brightbill				
S. Byrnes				
A. Fiore				
S. Massell				
Mayor Scharfenberger				

CERTIFICATION

I, Heidi R. Brunt, Township Clerk of the Township of Middletown, hereby certify the foregoing to be a true copy of a resolution adopted by the Middletown Township Committee at their meeting held October 4, 2010.

WITNESS, my hand and the seal of the Township of Middletown this 4th day of October, 2010.

HEIDI R. BRUNT
TOWNSHIP CLERK